

STATE OF NEW YORK
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

REQUEST: March 16, 2023

AGENCY: Monroe
FH #: 8579959K

In the Matter of the Appeal of
[REDACTED]
from a determination by the Monroe County
Department of Social Services

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**DECISION
AFTER
FAIR
HEARING**

JURISDICTION

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of Title 18 NYCRR, (hereinafter Regulations), a fair hearing was held on April 10, 2023, in Monroe County, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

[REDACTED]

For the Social Services Agency

Jennifer Sulimowicz, Fair Hearing Representative; (by telephone)
Ms. Slotnick, Fair Hearing Representative (by telephone)

ISSUE

Was the Agency's determination to deny the Appellant's application for Temporary Housing Assistance because the Appellant was not eligible for Public Assistance due to the receipt of a lump sum payment correct?

FINDINGS OF FACT

An opportunity to be heard having been afforded to all interested parties and evidence having been taken and due deliberation having been had, it is hereby found that:

1. The Appellant, age 36, had previously been in receipt of Public Assistance for herself only.
2. On July 6, 2020, the Appellant received \$7,111.00 in a lump sum payment in Unemployment Insurance Benefits (UIB).

3. The Appellant also received other income during that month which, after applicable deductions, totaled \$3,128.00.

4. By Notice dated November 14, 2020, the Agency determined to discontinue the Appellant's grant for 38 months beginning December 1, 2020, on the grounds that on July 6, 2020, the Appellant had received a lump sum distribution in Unemployment Insurance Benefits (UIB) in the amount of \$7,111.00 which resulted in the Appellant's household's resources, after allowable disregards, being above the applicable standard of need.

5. On January 25, 2023, the Appellant filed a new application for Public Assistance benefits.

6. The Appellant was placed in emergency housing on January 25, 2023 until January 26, 2023. The Appellant was again placed in emergency housing from January 31, 2023 until March 16, 2023.

7. On March 9, 2023, the Agency determined to deny the Appellant's application for a grant of Public Assistance due to the receipt of the previous lump sum payment because the period of ineligibility consisting of 38 months had not yet expired and the Appellant was not eligible to receive Public Assistance benefits until January 31, 2024.

8. The Agency determined that, since the Appellant was not eligible for Public Assistance benefits, the Appellant was therefore not eligible for temporary housing assistance and her placement ended on March 16, 2023.

9. On March 16, 2023, the Appellant requested this fair hearing.

APPLICABLE LAW

A Public Assistance household having income which, after application of appropriate disregards, exceeds the household standard of need because of the receipt in any month of a non-recurring lump sum of earned or unearned income shall be ineligible for Public Assistance for a period equal to the full number of months derived by dividing (i) the sum of the lump sum income and all other income received in such month which is not excluded under subdivision eight of Section 131-a of the Social Services Law by (ii) the standard of need for the family which consists of the Public Assistance household plus any other individuals whose lump sum income is considered available to such household. Any income remaining from this calculation is deemed income in the first month following such period of ineligibility. Social Services Law Section 131-a.12(a).

In determining the amount of the lump sum payment, any amounts which are exempt and disregarded as cash and liquid or nonliquid resources under Section 131-n of the Social Services Law must be disregarded. In addition, the period of ineligibility must be recalculated if, within 90 days of its receipt, any of the lump sum income is applied to an automobile needed for the

individual to seek or retain employment or for travel to and from work activities, or to a bank account, burial plot or funeral agreement which is disregarded as a resource under Section 131-n of the Social Services Law. Social Services Law 131-a.12(c).

GIS 16 TA/DC031 provides that the set aside policy for lump sums will allow up to \$10,000 (or such other higher dollar value as the local SSD may elect to adopt) as a set-aside when the funds are used within 90 days of the receipt of the lump sum to purchase an automobile that is needed to seek or retain employment or for travel to and from work activities. The lump sum set-aside will increase to \$11,000 effective April 1, 2017 and to \$12,000 effective April 1, 2018.

If as a result of the lump sum payment the household is determined ineligible, the recipient must be given the option of using all or part of the money to repay the district for Public Assistance benefits previously granted. Additionally, if there has been a change in household circumstances, or the lump sum is no longer available to the household for reasons beyond its control, or the family pays for medical expenses during the period of ineligibility, the Agency is required to shorten the period of ineligibility. 18 NYCRR 352.29(h).

Reasons which are considered beyond a family's control include but are not limited to any event or circumstance which the family did not foresee or could not prevent such as loss or theft of income and use of the income in life threatening circumstances. 18 NYCRR 352.29(h).

Payments which are intended to replace resources are treated as a resource and not as lump sum payments for Public Assistance purposes.

Administrative Directive 94 ADM-20, dated December 29, 1994, and amended December 27, 1996, requires local districts to provide services and assistance to prevent homelessness and to meet temporary housing and other immediate needs of eligible homeless persons. Districts must have procedures to: (a) ensure that emergency needs of homeless persons are evaluated and that homeless persons are advised of their rights to emergency and ongoing assistance; (b) permit persons who are in danger of becoming homeless to notify the district of such danger and to seek the assistance of the district in avoiding homelessness; (c) ensure that homeless persons or persons in danger of becoming homeless can apply for temporary housing whenever such housing is needed; (d) identify and, where appropriate, meet the immediate food and other immediate health and safety needs of eligible homeless persons; (e) provide Medical Assistance (MA) to otherwise eligible homeless persons; and (f) provide temporary housing assistance as soon as possible to eligible homeless persons who have no other available temporary or permanent housing. Pursuant to this ADM, the district must make reasonable efforts to determine the applicant's eligibility prior to providing temporary housing assistance. It is the expectation that assistance will be provided within 48 hours of application for such assistance. In providing assistance to homeless persons, districts must consider the differing services needs of families and of single adults. Such factors as the higher incidence of physical or mental impairment, chronic drug or alcohol abuse and prior incarceration or institutionalization exhibited by homeless single adults are relevant in determining housing needs

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and should be considered in developing procedures for the provision of temporary housing assistance.

As a general rule, individuals and families must be responsible for making their own housing arrangements. Districts have a limited ability to provide housing and are neither expected nor obligated to provide temporary housing assistance unless it is clearly demonstrated that the person requesting assistance is faced with an immediate need for housing, has made reasonable efforts to secure housing and cannot access any other housing even on a temporary basis.

Each district must provide temporary housing assistance only to persons who can establish that they are without housing at the time assistance is requested and have sought and cannot access any other housing even on a temporary basis. Persons who resided in their own or shared housing immediately prior to requesting temporary housing are presumed to not be in immediate need of assistance except in cases where a fire, flood or other sudden emergency has rendered the previous housing uninhabitable. Such persons must establish that they cannot return to their prior housing.

A social services district must deny or discontinue a person's or family's temporary housing assistance if it determines that the person or family has other housing available, or if it determines, consistent with the regulations in this Title, that the person or family is required to, but is not applying income and/or using available resources to reduce or eliminate the need for temporary housing assistance. 18 NYCRR 352.35(g).

Temporary housing assistance is a temporary, emergency benefit and is intended to be provided only as long as is reasonably necessary for the recipient to find other housing. Persons in receipt of temporary housing assistance remain responsible for locating their own housing including, but not limited to, permanent housing, reunification with family, appropriate residential facilities and, if necessary, other temporary housing, such as shared housing.

Burden of Proof

Section 358-5.9(a) of the Social Services regulations sets forth the burdens of proof for fair hearings. It states as follows:

(a) At a fair hearing concerning the denial of an application for or the adequacy of public assistance, medical assistance, HEAP, SNAP benefits or services; or an exemption from work activity requirements the appellant must establish that the agency's denial of assistance or benefits was not correct or that the appellant is eligible for a greater amount of assistance or benefits or is exempt from work requirements pursuant to Part 385 of this Title. Except, where otherwise established by law or regulation, in fair hearings concerning the discontinuance, reduction or suspension of public assistance, medical assistance, SNAP benefits or services, the social services agency must establish that its actions were correct.

DISCUSSION

The Agency's determination to deny the Appellant's application for Temporary Housing Assistance because the Appellant was not eligible for Public Assistance, due to the receipt of a lump sum payment was correct.

The uncontroverted facts at the hearing established that the Appellant, age 36, had previously been in receipt of Public Assistance for herself only. On July 6, 2020, the Appellant received \$7,111.00 in a lump sum payment in Unemployment Insurance Benefits (UIB). The Appellant also received other income during that month which, after applicable deductions, totaled \$3,128.00. By Notice dated November 14, 2020, the Agency determined to discontinue the Appellant's grant for 38 months beginning December 1, 2020, on the grounds that on July 6, 2020, the Appellant had received a lump sum distribution in Unemployment Insurance Benefits (UIB) in the amount of \$7,111.00 which resulted in the Appellant's household's resources, after allowable disregards, being above the applicable standard of need. On January 25, 2023, the Appellant filed a new application for Public Assistance benefits. The Appellant was placed in emergency housing on January 25, 2023 until January 26, 2023. The Appellant was again placed in emergency housing from January 31, 2023 until March 16, 2023. On March 9, 2023, the Agency determined to deny the Appellant's application for a grant of Public Assistance due to the receipt of a lump sum payment because the period of ineligibility consisting of 38 months had not yet expired and the Appellant was not eligible to receive Public Assistance benefits until January 31, 2024. The Agency determined that, since the Appellant was not eligible for Public Assistance benefits, the Appellant was therefore, not eligible for temporary housing assistance and her placement ended on March 16, 2023. On March 16, 2023, the Appellant requested this fair hearing.

The Agency presented documentary and testimonial evidence regarding its determination to deny the Appellant Temporary Housing Assistance. The Agency representatives testified that the Appellant received a lump sum payment of UIB in the amount of \$7,111.00 on July 6, 2020. [REDACTED] stated that this payment made the Appellant ineligible for Public Assistance until January 31, 2024. [REDACTED] indicated that because the Appellant was not eligible for Public Assistance until this sanction was completed, the Appellant's January 25, 2023 application had to be denied. [REDACTED] stated that Temporary Housing Assistance could not be granted if the individual seeking this assistance was not eligible for Public Assistance. The Agency indicated that the Appellant was not eligible for Temporary Housing Assistance as a result.

The Appellant testified that she did receive a lump sum payment in 2020. The Appellant indicated that this money from UIB was already spent so she no longer had access to these funds. The Appellant stated that she needs help and has no income at this time. The Appellant argued that she has no place to live, she has a substance abuse problem and is a victim of domestic violence.

In response, [REDACTED] suggested that the Appellant stay at the [REDACTED] or the [REDACTED] temporarily. [REDACTED] also suggested that the Appellant go

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to "Open Access" so that she could be placed in an inpatient substance abuse program within a few days. [REDACTED] also recommended that the Appellant engage with [REDACTED] for substance abuse treatment.

To be eligible for Temporary Housing Assistance, an individual must be eligible for Public Assistance. In this case, the Appellant is ineligible for Public Assistance until January 31, 2024, due to the Appellant's prior receipt of a lump sum payment of UIB. As such, the Appellant cannot receive temporary housing assistance until this period of time has ended. Accordingly, the Agency's determination to deny the Appellant's application for Temporary Housing Assistance because the Appellant was not eligible for Public Assistance, due to the receipt of a lump sum payment, was correct.

DECISION

The Agency's determination to deny the Appellant's application for Temporary Housing Assistance because the Appellant was not eligible for Public Assistance, due to the receipt of a lump sum payment was correct and is affirmed.

DATED: Albany, New York
04/11/2023

NEW YORK STATE OFFICE OF
TEMPORARY AND DISABILITY ASSISTANCE

By

A handwritten signature in black ink, appearing to read "Jana Rook", written over a faint circular stamp.

Commissioner's Designee

Assistance Information

Important notice enclosed. If you need help reading the notice, call 1-800-342-3334.

Aviso importante adjunto: si necesita ayuda para leer este aviso, marque el 1-800-342-3334.

গুরুত্বপূর্ণ নোটিস সংযুক্ত। আপনার যদি নোটিসটি পড়তে সাহায্যের প্রয়োজন হয়, তাহলে কল করুন 1-800-342-3334 নম্বরে।

إخطار هام مرفق. إذا احتجت إلى المساعدة في قراءة الإخطار يرجى الاتصال بالرقم 1-800-342-3334.

內附重要通告。如需幫助閱讀此通告，請撥打1-800-342-3334。

Un avis important est joint à ce document. Si vous avez besoin d'aide pour la lecture de l'avis, appelez le 1-800-342-3334.

Avi enpòtan enkli. Si w bezwen èd pou w li avi a, rele 1-800-342-3334.

중요한 공지사항이 포함되어 있습니다. 이 공지사항을 읽는데 도움이 필요하시면, 1-800-342-3334로 전화하세요.

Содержит важную информацию. Если при чтении этого извещения у Вас возникнут трудности, позвоните по телефону 1-800-342-3334.

Kèm theo là thông báo quan trọng. Nếu quý vị cần giúp đọc thông báo này, hãy gọi 1-800-342-3334.

ביגעל"גט א וויכטיקע מעלדונג. אויב איר דארפט הילף ביים לייענען די מעלדונג, קלינגט אן 1-800-342-3334.

Avviso importante incluso. Se ha bisogno di aiuto per leggere l'avviso, contatti il numero 1-800-342-3334.

Ważna informacja w załączeniu. Jeśli potrzebujesz pomocy w przeczytaniu tej informacji, zadzwoń pod numer 1-800-342-3334.

اہم نوٹس منسلک ہے۔ اگر آپ کو نوٹس پڑھنے میں مدد چاہیے تو 1-800-342-800 پر کال کریں۔